

In re: Scott W. Knutson
Serial No.: 10/081,848

REMARKS

This amendment follows the outstanding Official Action dated 03/31/04 and is intended as a complete and proper response thereto. In particular, the present paper is presented with the view of advancing prosecution of this application on its merits and hopefully placing this case in a clear condition for allowance.

In order to render this Amendment responsive, a Petition for Extension of Time to Respond Within the Third Month Pursuant to § 1.136(a) is submitted herewith in duplicate along with the requisite petition fee of \$475.00 commensurate with the applicant's small entity status as previously established.

Claims 1-3, 5-9, 11-15 and 17-20 remain in the application. These remaining claims have been amended in accordance with the examiners detailed action. Reexamination and reconsideration of the application, as amended, is requested.

Claims 1-2, 7-8, 13-14, and 19-20 have all been rejected under 35 U.S.C. § 103(a) as being unpatentable over Haglund 3,866,169 in view of Lentine et al. 6,603,402. For prior art references to be combined to render obvious a subsequent invention under § 103, there must be something in the prior art as a whole which suggests the desirability, and thus the obviousness, of making the combination. *Uniroyal v. Rudkin-Wiley*, 5 U.S.P.Q. 2d 1434, 1438 (Fed. Cir. 1988). The teaching of the references can be combined only if there is some suggestion or incentive in the

prior art to do so. *In re Fine*, 5 U.S.P.Q. 2d 1596, 1599 (Fed. Cir. 1988). Hindsight is forbidden. It is impermissible to use the claims as a framework from which to pick and choose individual references to recreate the claimed invention. *Id.* at 1600; *W.L. Gore*, 220 U.S.P.Q. at 312. Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992); *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

The Haglund 169 patent generally discloses a vehicle signaling apparatus having a receiving unit and a transmitter unit with a cable connecting the two, the transmitter unit having push button signal switches for illuminating corresponding signal indicator lamps mounted on the display. As can be seen from this application, the two devices contain a cable connecting the devices and are used for backing up a semi or the like into tight situations wherein someone driving the vehicle watches the receiver and another person directing the vehicle from the outside uses the corded transmitter to assist in backing up the vehicle.

The Lentine et al. 402 patent generally discloses a water skier alert system and tow bar handle assembly. This device uses a tow bar for a water skier having a radio transmitter and signaling button on the tow bar handle which communicate with a receiver placed in the boat such that the water skier can direct the boat driver.

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The examiner is reminded that there must be something in the prior art as a whole to suggest the desirability and obviousness of making the combination. Nowhere in examining the Lentine et al. or the Haglund patents is there any indication that there would be any desirability of combining a water skier alert system and tow bar handle with a vehicle signaling apparatus to come up with the present invention including the wireless forward and reverse arrows. Further, there is no teaching or suggestion in these two devices to combine the audible system to come up with the system as currently claimed.

Claims 1, 7, 13 and 19 have been amended to include the limitation that the transmitter and receiver have a maximum effective range of less than 1,000 feet so as to limit interference in a harvesting situation where multiple devices are being used. There is no teaching in Haglund for any such limit to the interference as Haglund is a corded device. Further, there is no teaching or mention of limiting the range of the device in Lentine et al.

Finally, it is believed that this combination is impermissible as there is no incentive in the prior art to make this combination and these art forms are completely different areas of technology as indicated by the classifications and the usage of these devices.

Claims 3-4, 9-10, and 15-16 have also been rejected over Haglund in view of Lentine et al. as discussed above in further view of Toal, Jr. 4,797,671. The Toal, Jr. patent is for a motor vehicle locating system and uses DIP switches for encoding and decoding

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of the signal. Once again, it is believed that this combination is an impermissible combination using hindsight. It is impermissible to use the claims as a framework from which to pick and choose individual references to recreate the claimed invention as discussed above. It is believed that the combination of a corded vehicle signaling apparatus as shown in Haglund from 1975 with a water skier alert system of 2003 and finally, a motor vehicle locator system having nothing to do with directional controls of 1989 is an impermissible use of the claims as a framework to pick and choose references. There is no teaching in any of these art forms or suggestion that it would be desirable to make this type of combination.

Finally, claims 5-6, 11-12, and 17-18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Haglund in view of Lentine et al. and Toal, Jr. as applied to claim 3 and discussed above, in further view of Franklin 4,689,611. The Franklin device, an alarm and communication system for water skiers, shows the use of a battery system. It is believed that the technology uses in this device, as with most new inventions, uses many parts of readily available equipment. It appears that the examiner, when picking these four references and combining them, has picked portions of the technology and used the claims as an impermissible framework for making this rejection.

Once again there is no teaching anywhere in the prior art of record that it would be desirable to combine the vehicle signaling apparatus of Haglund with the water skier alert systems and tow bar of Lentine et al., the alarm and communications system for water skiers of Franklin with a motor vehicle locator

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system of Toal, Jr. This impermissible combination of four prior art references is clearly forbidden under the above referenced case law.

Finally, the amendment of claims 1, 7 and 13 to include the limitation on the transmitter and receiver distance to less than 1,000 feet so as to limit interference, is believed to clearly define over all of the prior art of record. In addition, it is believed that claim 19 clearly defines over the prior art of record with the above discussed limitation and in combination with the particular method claim that is not disclosed or discussed in any way in any of the prior art.

Based upon the amendment of the claims contained herein and the discussion of how these particular claims are patentable over the prior art of record and discussion of the current rejections, it is believed that the patentable nature of the claims has been demonstrated.

In view of the above remarks, reconsideration and allowance of the claims is kindly requested. Should any matters remain outstanding that may be handle over the phone the examiner is encouraged to call.

Respectfully Submitted,

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Curtis V. Harr
Attorney for the Applicant
Reg. No. 37,844
P.O. Box 2842
Fargo, ND 58108-2842
Voice (701) 298-3001
Fax (701) 298-3002